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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/086,698

03/04/2002

Quansheng Wu

12659-US

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23553

7590

09/21/2005

MARKS & CLERK

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STATION B

OTTAWA, ON K1P 5S7

CANADA

EXAMINER

TRAN, DZUNG D

ART UNIT

PAPER NUMBER

2638

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,698

Applicant(s)

WU ET AL.

Examiner

Dzung D Tran

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The indicated allowability of claims 15 and 16 is withdrawn in view of the newly discovered reference(s) to Hemmady U.S. Patent no. 5,398,236.

Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nasir Lambda labeling: a framework for IP over WDM using MPLS; Optical network magazine, April 2000 in view of Hemmady U.S. Patent no. 5,398,236.

Regarding claims 15 and 16, Nasir discloses a method of performing automatic recovery of a control plane network in the event of a control link failure in an optical communications system comprising:

Electronic framing solution or MPLS hello (equivalent to link manager) for detecting a failure in a control link between neighboring nodes (pages 54-55); MPLS node (equivalent to control channel manager) for searching for an alternate route

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between the neighboring nodes, switching the control plane to the alternate route if an alternate route is located (page 53) and notifying respective switch nodes of the alternate route (page 53). Nasir further discloses MPLS has an information database for maintaining information on the control network (claim 15) and having an IP forwarder for forwarding information (claim 16) (e.g., MPLS label stacking, MPLS based lambda-labeling, MPLSVPN..., see pages 51-52). Nasir differs from claim 15 of the invention in that Nasir does not specifically disclose information database stores a forwarding redirection table that maps forwarding interfaces. Hemmady discloses an ATM network having plurality of nodes, each node having a CPU that stores the routing information for alternate connection (e.g., equivalent to a forwarding redirection table that maps forwarding interface). In response to an alarm indicating a break or other failure of link, the MNS send a command to the node to establish a hardware "loop back" path in the node interface circuit connected to the faulty link. This causes all cells originally set up for transmission over the faulty link to be rerouted to a predetermined alternate link. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of Hemmady that is store the data information in the CPU memory in the system of Nasir. One of ordinary skill in the art would have been motivated to do this order to allow the system switch to the alternate route faster than normal with a predetermined alternate route table.

***Response to Arguments***

4. Applicant's arguments with respect to claims 15 and 16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JVanderpuye Kenneth can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Dzung Tran  
03/18/2005



**KENNETH VANDERPUYE**  
**PRIMARY EXAMINER**